

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
WANG <i>et al.</i>)	Group Art Unit: 1647
)	
Application No.: 09/804,625)	Examiner: D. Romeo
)	
Filed: March 9, 2001)	Confirmation No.: 2656
)	
For: BMP PRODUCTS)	
)	

Assistant Commissioner for Patents
Washington, DC 20231
BOX: PETITIONS

Sir:

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 1.705

Applicants have received the Notice of Allowance dated January 24, 2007, advising that this application is entitled to thirty-six (36) days of Patent Term Adjustment. A copy of this document is enclosed for your reference. Applicants submit that the adjustment set forth in the Notice of Allowance is incorrect, and that the correct patent term adjustment should be ninety-eight (98) days. Applicants are therefore timely filing this Application for Patent Term Adjustment under 37 C.F.R. § 1.705 before payment of the issue fee.

This application was filed on March 9, 2001. The period for adjustment under 37 C.F.R. § 703(a)(1) is 340 days, not the 278 days listed on the Patent Term Adjustment History provided in PAIR and used to reach the 36 day adjustment term calculated by the Patent Office.

STATEMENT OF FACTS

The error in the patent term adjustment provided with the Notice of Allowance is a result of a phantom entry in the PAIR transaction history. The transaction history on PAIR shows the issuance of two Requirements for Restriction/Election, one dated February 11, 2003 and a second dated April 14, 2003. However, Applicants received only one, dated April 14, 2003 and containing an additional cover sheet dated February 11, 2003. This paper was received by Applicants on April 22, 2003. Applicants note that the Restriction Requirement of April 14, 2003 does not reference a prior Requirement, confirming that the February 11, 2003 Restriction Requirement was never issued. Copies of Transaction History, the Image File Wrapper Index, and the Patent Term Adjustment History obtained from PAIR, along with the April 14, 2003 Restriction Requirement are attached.

When the Office calculated the patent term adjustment available under 37 C.F.R. § 1.703(a)(1) (the number of days in the period beginning on the day after the date that is 14 months from the application filing date), the February 11, 2003 date was used as the mailing date of the first action under 35 U.S.C. § 132. This resulted in a 37 C.F.R. § 1.703(a)(1) adjustment of 278 days. Applicants submit that this calculation is incorrect because the February 11, 2003 Restriction Requirement was never mailed, as evidenced by its absence in the Patent Office's or Applicants' files anywhere other than as an extra cover sheet in the Restriction Requirement of April 14, 2003. Applicants submit that the first action under 35 U.S.C. § 132 was mailed on April 14, 2003. Using the April 14, 2003 Restriction Requirement as the first action under 35 U.S.C. 132, the adjustment period under 7 C.F.R. § 1.703(a)(1) is 340 days.

TERMINAL DISCLAIMER AND EXPIRATION DATE

Applicants note that this application is subject to a terminal disclaimer over U.S. Patent No. 5,166,058, which will expire on November 24, 2009. Without patent term adjustment, any patent granted off the instant application would expire on April 8, 2008, and with the requested 98 days of term adjustment, it would expire on July 15, 2008. Therefore, the terminal disclaimer over U.S. Patent No. 5,166,058 will not affect the expiration date of a patent granted off the instant application.


CONCLUSION

In light of the facts set forth above, Applicants request that this patent expiration date be adjusted by 98 days to accurately reflect the delay on the part of the Office. Applicants enclose \$200.00 to cover the fee set forth in 37 C.F.R. § 1.18(e) for filing this request. Please charge any deficiencies to our Deposit Account No. 06-0916. If there are any other fees due in connection with the filing of this request, please also charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: March 12, 2007

By: 
Elizabeth E. Mathiesen
Reg. No. 54,696

Attachments:

- Notice of Allowance
- Transaction History (PAIR 03/05/07)
- Image File Wrapper Index (PAIR 03/05/07)
- Restriction Requirement of 04/14/03 (PAIR 03/05/07)



NOTICE OF ALLOWANCE AND FEE(S) DUE

22852 7590 01/24/2007

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER	
ROMEO, DAVID S	
ART UNIT	PAPER NUMBER
1647	
DATE MAILED: 01/24/2007	

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,625	03/09/2001	Elizabeth A. Wang	5160C-CON	2656

TITLE OF INVENTION: NOVEL BMP PRODUCTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$0	\$1700	04/24/2007

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

- A. Pay TOTAL FEE(S) DUE shown above, or
- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE
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 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 or **Fax** (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

22852 7590 01/24/2007

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
 LLP
 901 NEW YORK AVENUE, NW
 WASHINGTON, DC 20001-4413

Certificate of Mailing or Transmission
 I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,625	03/09/2001	Elizabeth A. Wang	5160C-CON	2656

TITLE OF INVENTION: NOVEL BMP PRODUCTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$0	\$1700	04/24/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
ROMEO, DAVID S	1647	435-069100

<p>1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).</p> <p><input type="checkbox"/> Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.</p> <p><input type="checkbox"/> "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.</p>	<p>2. For printing on the patent front page, list</p> <p>(1) the names of up to 3 registered patent attorneys or agents OR, alternatively, _____ 1</p> <p>(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. _____ 2</p> <p>_____ 3</p>
--	---

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE _____ (B) RESIDENCE: (CITY and STATE OR COUNTRY) _____

Please check the appropriate assignee category or categories (will not be printed on the patent) : Individual Corporation or other private group entity Government

<p>4a. The following fee(s) are submitted:</p> <p><input type="checkbox"/> Issue Fee</p> <p><input type="checkbox"/> Publication Fee (No small entity discount permitted)</p> <p><input type="checkbox"/> Advance Order - # of Copies _____</p>	<p>4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)</p> <p><input type="checkbox"/> A check is enclosed.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input type="checkbox"/> The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).</p>
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5. Change in Entity Status (from status indicated above)

a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
09/804,625 03/09/2001 Elizabeth A. Wang 5160C-CON 2656

22852 7590 01/24/2007
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LLP
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Table with 2 columns: EXAMINER, ART UNIT, PAPER NUMBER
EXAMINER: ROMEO, DAVID S
ART UNIT: 1647
PAPER NUMBER: DATE MAILED: 01/24/2007

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 36 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 36 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

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Transaction History	
Date	Transaction Description
02-08-2007	Sequence Forwarded to Pubs on Tape
01-24-2007	Mail Notice of Allowance
01-22-2007	Notice of Allowance Data Verification Completed
01-22-2007	Case Docketed to Examiner in GAU
11-20-2006	Paralegal TD Accepted
11-19-2006	Date Forwarded to Examiner
11-08-2006	Response after Non-Final Action
11-08-2006	Request for Extension of Time - Granted
07-25-2006	Mail Non-Final Rejection
07-24-2006	Non-Final Rejection
05-19-2006	Date Forwarded to Examiner
05-08-2006	Response after Non-Final Action
02-07-2006	Mail Non-Final Rejection
02-06-2006	Non-Final Rejection
11-16-2005	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received
11-28-2005	Date Forwarded to Examiner
11-28-2005	Date Forwarded to Examiner
11-16-2005	Request for Continued Examination (RCE)
11-28-2005	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)
11-16-2005	Request for Extension of Time - Granted
11-16-2005	Workflow - Request for RCE - Begin
09-20-2005	Mail Advisory Action (PTOL - 303)
09-16-2005	Advisory Action (PTOL-303)
08-11-2005	Date Forwarded to Examiner
08-02-2005	Amendment after Final Rejection
05-17-2005	Mail Final Rejection (PTOL - 326)
05-16-2005	Final Rejection
03-30-2005	Reference capture on IDS
03-30-2005	Information Disclosure Statement (IDS) Filed
04-08-2005	Correspondence Address Change
03-08-2005	Date Forwarded to Examiner
02-22-2005	Response after Non-Final Action
03-07-2005	CRF Is Good Technically / Entered into Database
02-04-2005	Mail Notice of Informal or Non-Responsive Amendment
12-02-2004	Date Forwarded to Examiner
11-22-2004	Informal or Non-Responsive Amendment after Examiner Action
11-22-2004	Response after Non-Final Action
11-22-2004	Workflow incoming amendment IFW
11-19-2004	Mail Non-Final Rejection
11-19-2004	Non-Final Rejection
09-18-2004	Date Forwarded to Examiner
09-09-2004	Response after Non-Final Action
09-09-2004	Request for Extension of Time - Granted
09-09-2004	Workflow incoming amendment IFW
05-17-2004	Mail Notification of Terminal Disclaimer - Accepted
05-17-2004	Mail Non-Final Rejection
05-17-2004	Non-Final Rejection
03-11-2004	IFW Amended case processing Complete
03-11-2004	Date Forwarded to Examiner
02-09-2004	Response after Non-Final Action
02-09-2004	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received
02-09-2004	Terminal Disclaimer Filed
03-09-2004	Notification of Terminal Disclaimer - Accepted
11-03-2003	Mail Non-Final Rejection
11-03-2003	Non-Final Rejection
08-28-2003	Date Forwarded to Examiner
06-13-2003	Response to Election / Restriction Filed
06-13-2003	Request for Extension of Time - Granted
04-14-2003	Mail Supplemental Restriction / Election Requirement
04-14-2003	Supplemental Restriction
04-14-2003	Correspondence Address Change
02-27-2003	Information Disclosure Statement (IDS) Filed
02-11-2003	Mail Restriction Requirement
02-10-2003	Requirement for Restriction / Election
03-09-2001	Information Disclosure Statement (IDS) Filed
03-09-2001	Preliminary Amendment
02-25-2002	Case Docketed to Examiner in GAU
02-05-2002	Application Dispatched from OIPE
01-15-2002	Application Is Now Complete
01-14-2002	CRF Is Good Technically / Entered into Database
06-12-2001	Correspondence Address Change
06-12-2001	Correspondence Address Change

05-02-2001	IFW Scan & PACR Auto Security Review
03-28-2001	IFW Scan & PACR Auto Security Review
03-09-2001	Initial Exam Team nn

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	02-22-2007	Bibliographic Data Sheet	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	01-24-2007	Notice of Allowance and Fees Due (PTOL-85)	PROSECUTION	3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	01-24-2007	Notice of Allowance and Fees Due (PTOL-85)	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	01-24-2007	Issue Information including classification, examiner, name, claim, renumbering, etc.	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	01-24-2007	Claims	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	01-24-2007	Bibliographic Data Sheet	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	01-24-2007	Search information including classification, databases and other search related notes	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-21-2006	Terminal Disclaimer Approval form used within the USPTO	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-19-2006	Fee Worksheet (PTO-06)	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-08-2006	Amendment - After Non-Final Rejection	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-08-2006	Claims	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-08-2006	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-08-2006	Terminal Disclaimer Filed	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-08-2006	Fee Worksheet (PTO-06)	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-08-2006	Status Letter Mailed to Applicant	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-08-2006	Extension of Time	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	07-25-2006	Non-Final Rejection	PROSECUTION	5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	05-08-2006	Fee Worksheet (PTO-06)	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	05-08-2006	Amendment - After Non-Final Rejection	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	05-08-2006	Specification	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	05-08-2006	Claims	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	05-08-2006	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	02-07-2006	Non-Final Rejection	PROSECUTION	6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	02-07-2006	List of references cited by examiner	PRIOR ART	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	02-07-2006	Bibliographic Data Sheet	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-16-2005	Fee Worksheet (PTO-06)	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-16-2005	Amendment Submitted/Entered with Filing of CPA/RCE	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-16-2005	Specification	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-16-2005	Claims	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-16-2005	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-16-2005	Rule 130, 131 or 132 Affidavits	PROSECUTION	50	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-16-2005	Request for Continued Examination (RCE)	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	11-16-2005	Extension of Time	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	09-20-2005	Advisory Action (PTOL-303)	PROSECUTION	3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	09-20-2005	Amendment After Final or under 37CFR 1.312, initialed by the examiner.	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	09-20-2005	Index of Claims	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	08-02-2005	Fee Worksheet (PTO-06)	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	08-02-2005	Amendment After Final or under 37CFR 1.312, initialed by the examiner.	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	08-02-2005	Claims	PROSECUTION	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	08-02-2005	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
	05-17-2005	Final Rejection	PROSECUTION	5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
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	05-17-2005	Search information including classification, databases and other search related notes	PROSECUTION	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
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09-09-2004	Amendment - After Non-Final Rejection	PROSECUTION	2	<input type="checkbox"/>
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Patent Term Adjustment												
Filing or 371(c) Date:	03-09-2001	USPTO Delay (PTO) Delay (days):		299								
Issue Date of Patent:	null	Three Years:		-								
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):		263								
Post-Issue Petitions (days):	+0	Total Patent Term Adjustment (days):		36								
USPTO Adjustment (days):	+0	Explanation Of Calculations										
Patent Term Adjustment History												
Date	Contents Description	PTO(Days)	APPL(Days)									
01-24-2007	Mail Notice of Allowance											
01-22-2007	Notice of Allowance Data Verification Completed											
01-22-2007	Case Docketed to Examiner in GAU											
11-20-2006	Paralegal TD Accepted											
11-19-2006	Date Forwarded to Examiner											
11-08-2006	Response after Non-Final Action		14									
11-08-2006	Request for Extension of Time - Granted		↑									
07-25-2006	Mail Non-Final Rejection		↑									
07-24-2006	Non-Final Rejection											
05-19-2006	Date Forwarded to Examiner											
05-08-2006	Response after Non-Final Action		1									
02-07-2006	Mail Non-Final Rejection		↑									
02-06-2006	Non-Final Rejection											
11-16-2005	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received											
11-28-2005	Date Forwarded to Examiner											
11-28-2005	Date Forwarded to Examiner											
11-16-2005	Request for Continued Examination (RCE)		91									
11-28-2005	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)		↑									
11-16-2005	Request for Extension of Time - Granted		↑									
11-16-2005	Workflow - Request for RCE - Begin		↑									
09-20-2005	Mail Advisory Action (PTOL - 303)		↑									
09-16-2005	Advisory Action (PTOL-303)		↑									
08-11-2005	Date Forwarded to Examiner		↑									
08-02-2005	Amendment after Final Rejection		↑									
05-17-2005	Mail Final Rejection (PTOL - 326)		↑									
05-16-2005	Final Rejection											
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03-08-2005	Date Forwarded to Examiner		↑									
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03-07-2005	CRF Is Good Technically / Entered into Database		↑									
02-04-2005	Mail Notice of Informal or Non-Responsive Amendment		↑									
12-02-2004	Date Forwarded to Examiner		↑									
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02-10-2003	Requirement for Restriction / Election	↑
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03-09-2001	Preliminary Amendment	↑
02-25-2002	Case Docketed to Examiner in GAU	↑
02-05-2002	Application Dispatched from OIPE	↑
01-15-2002	Application Is Now Complete	↑
01-14-2002	CRF Is Good Technically / Entered into Database	↑
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05-02-2001	IFW Scan & PACR Auto Security Review	↑
03-28-2001	IFW Scan & PACR Auto Security Review	↑
03-09-2001	Initial Exam Team nn	↑

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,625	03/09/2001	Elizabeth A. Wang	5160C-CON	2656

7590 04/14/2003
FINNEGAN, HENDERSON, FARABOW
GARRETT AND DUNNER, LLP
1300 I STREET, N.W.
WASHINGTON, DC 20005-3315

EXAMINER

ROMEO, DAVID S

ART UNIT	PAPER NUMBER
1647	

DATE MAILED: 04/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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APR 22 2003

FINNEGAN, HENDERSON, FARABOW,
GARRETT AND DUNNER, LLP

Docketed 04-22-03 Attorney LAM/EM
Case 02702-0039-02
Due Date 05-14-03 WEST
Action RESP DUE
By IMS

1 M05 10AS 4/22/03



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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,625	03/09/2001	Elizabeth A. Wang	5160C-CON	2656

7590 02/11/2003
American Home Products Corporation
Attention: Kay E. Brady
Patent & Trademark Office - 2B
One Campus Drive
Parsippany, NJ 07054

EXAMINER

ROMEO, DAVID S

ART UNIT	PAPER NUMBER
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1647

DATE MAILED: 02/11/2003

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Office Action Summary

Application No.

09/804,625

Applicant(s)

WANG ET AL.

Examiner

David S Romeo

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 March 2001.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 24-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 24-49 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) Interview Summary (PTO-413) Paper No(s). _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other:

DETAILED ACTION

The preliminary amendment mailed March 9, 2001 (Paper No. 6) has been entered.

5 The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 47-50 have been renumbered 46-49, respectively.

10

Claims 24-49 are pending.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- 15
- I. Claims 24-26, 29, 30, 33, 35, 36, 38, 39, 41, 42, to the extent that they are drawn to a polynucleotide encoding amino acids 299-396 of Figure 2, classified in class 536, subclass 23.5.
 - II. Claims 24, 27, 28, 31, 32, 34, 35, 37, 38, 40, 41, 43, to the extent that they are drawn to a polynucleotide encoding amino acids 311-408 of Figure 3, classified in
20 class 536, subclass 23.5.
 - III. Claims 44-48, drawn to a polypeptide comprising amino acids 299-396 of Figure 2, classified in class 530, subclass 300.

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IV. Claim 49, drawn to an antibody that binds a polypeptide comprising amino acids 299-396 of Figure 2, classified in class 530, subclass 387.1.

The inventions are distinct, each from the other because of the following reasons:

The following pairwise combinations of products are independent and distinct, wherein
5 neither member of a pair is required for the production or use of the other, and wherein each of the pair can be manufactured independently of the other and/or used for independent and distinct purposes: I and II; II and each of III and IV.

The polynucleotides of Invention I are related to the polypeptides of Invention III by virtue of encoding same. The polynucleotide has utility for the recombinant production of the
10 polypeptide in a host cell. Although the polynucleotide and polypeptide are related since the polynucleotide encodes the specifically claimed polypeptide, they are distinct inventions because they are physically and functionally distinct chemical entities, and the polypeptide product can be made by another and materially different process, such as by synthetic polypeptide synthesis or purification from the natural source. Further, the polynucleotide may be used for processes
15 other than the production of the polypeptide, such as a nucleic acid hybridization assay.

The polynucleotide of invention I and the antibody of Invention IV are related by virtue of the polypeptide that is encoded by the polynucleotide and necessary for the production of the antibody. However, the polynucleotide itself is not necessary for antibody production and both are wholly different compounds having different compositions and functions. Therefore, these
20 inventions are distinct.

The polypeptide of invention III is related to the antibody of Invention IV by virtue of being the cognate antigen, necessary for the production of the antibody. Although the

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polypeptide and antibody are related due to the necessary steric complementarity of the two, they are distinct inventions because they are physically and functionally distinct chemical entities, and because the polypeptide can be used in another materially different process from the use for production of the antibody, such as in a pharmaceutical composition in its own right, or
5 in assays for the identification of agonists or antagonists.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the searches
10 required are not coextensive, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an
15 election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the
20 application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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IF ATTEMPTS TO REACH THE EXAMINER BY TELEPHONE ARE UNSUCCESSFUL, THE EXAMINER'S SUPERVISOR, GARY KUNZ, CAN BE REACHED ON (703) 308-4623.

IF SUBMITTING OFFICIAL CORRESPONDENCE BY FAX, APPLICANTS ARE ENCOURAGED TO SUBMIT OFFICIAL CORRESPONDENCE TO THE FOLLOWING TC 1600 BEFORE AND AFTER FINAL RIGHTFAX NUMBERS:

BEFORE FINAL (703) 872-9306

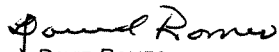
AFTER FINAL (703) 872-9307

IN ADDITION TO THE OFFICIAL RIGHTFAX NUMBERS ABOVE, THE TC 1600 FAX CENTER HAS THE FOLLOWING OFFICIAL FAX NUMBERS: (703) 305-3592, (703) 308-4242 AND (703) 305-3014.

CUSTOMERS ARE ALSO ADVISED TO USE CERTIFICATE OF FACSIMILE PROCEDURES WHEN SUBMITTING A REPLY TO A NON-FINAL OR FINAL OFFICE ACTION BY FACSIMILE (SEE 37 CFR 1.6 AND 1.8).

FAXED DRAFT OR INFORMAL COMMUNICATIONS SHOULD BE DIRECTED TO THE EXAMINER AT (703) 308-0294.

ANY INQUIRY OF A GENERAL NATURE OR RELATING TO THE STATUS OF THIS APPLICATION OR PROCEEDING SHOULD BE DIRECTED TO THE GROUP RECEPTIONIST WHOSE TELEPHONE NUMBER IS (703) 308-0196.



DAVID ROMEO
PRIMARY EXAMINER
ART UNIT 1647

DSR
FEBRUARY 10, 2003